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E-Filed on June 15, 2006

Attorneys for SCOTT K. CANEPA

UNITED STATE BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:)	Case No. BK-S-06-10725-LBR
)	Case No. BK-S-06-10726-LBR
USA COMMERCIAL MORTGAGE COMPANY,)	Case No. BK-S-06-10727-LBR
)	Case No. BK-S-06-10728-LBR
Debtor.)	Case No. BK-S-06-10729-LBR

In re:)	Chapter 11
USA CAPITAL REALTY ADVISORS, LLC,)	
)	Jointly Administered Under
Debtor.)	Case No. BK-S-06-10725-LBR

In re:)
USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC,)
)
Debtor.)

In re:)
USA CAPITAL FIRST TRUST DEED FUND, LLC,)
)
Debtor.)

In re:)
USA SECURITIES, LLC,)
)
Debtor.)

Affects:)
<input checked="" type="checkbox"/> All Debtors)
<input type="checkbox"/> USA Commercial Mortgage Company)
<input type="checkbox"/> USA Securities, LLC)
<input type="checkbox"/> USA Capital Realty Advisors, LLC)
<input type="checkbox"/> USA Capital Diversified Trust Deed Fund, LLC)
<input type="checkbox"/> USA First Trust Deed Fund, LLC)

Date: June 15, 2006
 Time: 10:00 a.m.

EVIDENTIARY OBJECTIONS AND MOTION TO STRIKE
FOURTH SUPPLEMENTAL DECLARATION OF
THOMAS J. ALLISON IN SUPPORT OF DEBTORS' MOTIONS
(PERTAINS TO ALL DEBTORS)

1 Scott K. Canepa, whose Motion for Relief from the Automatic Stay to terminate the Loan
 2 Servicing Agreement with respect to the Boise/Gowan 93, LLC ("Boise/Gowan") loan (DE 292)
 3 ("Canepa Motion"), will be heard June 15, 2006, at 10:00 a.m., submits the following Evidentiary
 4 Objection and Motion to Strike the Fourth Supplemental Declaration of Thomas J. Allison in
 5 Support of Debtor's Motions (DE 648) ("Fourth Allison Declaration") in order to preserve the record
 6 on the Boise/Gowan Motion (FRE 103(a)(1)), and because the Fourth Allison Declaration was filed
 7 and docketed in opposition to the Canepa Motion. Based upon the evidentiary objections and other
 8 matters set forth below, the Fourth Allison Declaration should be stricken in its entirety.

9 The evidentiary objections are as follows:

10 1. In response to a Motion filed as a Contested Matter, Local Rule 9014(d) permits
 11 either an opposition or a response to be filed by non-moving parties. A sur-reply is therefore not
 12 permitted without Court approval. Id.

13 2. Except for Paragraph 1, the entire Fourth Allison Declaration must be stricken
 14 because it contains inadmissible hearsay regarding documents, facts not in evidence and
 15 communications or information gathered from third parties, without providing any basis upon which
 16 to satisfy any applicable exception to the hearsay rule. *See* FRE 801, 802, 803.

17 3. Mr. Allison fails to lay a foundation for the testimony or provide a sufficient basis
 18 for his opinions expressed in Paragraphs 2 through 17 of the Fourth Allison Declaration, including
 19 a sufficient demonstration of the investigation conducted and underlying facts and data which form
 20 the basis of each conclusion reached by Mr. Allison with respect to business judgment, and more
 21 specifically, his conclusions that: (a) negotiations with borrowers who are affiliates to the
 22 Boise/Gowan borrower will be more difficult by removal of the Boise/Gowan loan from the USA
 23 Commercial loan portfolio; (b) Direct Investors and Direct Lenders will be harmed by removing the
 24 Boise/Gowan loan from the USA Commercial loan portfolio; (c) negotiations with affiliated
 25 borrowers¹ must be conducted on a "global scale" rather than on a loan by loan or project by project
 26

27 ¹ Indeed, the Boise/Gowan borrower is a "joint venture between USA Investment
 28 Partners (Messrs. Hantges and Milanowski) and Robert Russell, Boise/Gowan Lift Stay Motion,
Exhibit N. One has difficulty identifying the "affiliated borrowers" to which Mr. Allison refers.

1 basis; (d) successful negotiations with borrowers takes priority over satisfying USA Commercial's
 2 contractual and statutory obligations to Direct Lenders and Direct Investors as a loan servicing agent;
 3 (e) there is no harm to Direct Lenders in the Boise/Gowan loan by postponing payment to them until
 4 after July 25, 2006; (f) it is appropriate to disregard corporate formalities in concluding that certain
 5 affiliated borrowers are essentially the same borrower for the purpose of some "global" resolution
 6 of the borrower's loans; and (g) Scott Canepa's Direct Loans held other than in his individual
 7 capacity can somehow be lumped together for the purpose of setoff, withholding or some other
 8 purpose by USA Commercial.² See FRE 601, 602, 701, 702, 703.

9 4. The Fourth Allison Declaration also fails to lay a foundation for the testimony or
 10 provide a sufficient basis for his opinions contained in Paragraphs 12 through 17 of the Declaration
 11 that: (a) Boise/Gowan requires an additional loan of \$125,000; (b) Boise/Gowan is entitled to an
 12 additional loan of \$125,000; (c) USA Commercial and/or the Direct Lenders are required to fund
 13 an additional loan of \$125,000; (d) for a one-year loan obtained to acquire raw land that matures at
 14 the end of August, 2006, what particular facts and circumstances give rise to the concern that a
 15 mechanic liens may somehow impact the property or the Boise/Gowan Direct Lenders' collateral;
 16 (e) the source of funds for such a loan; and (f) in light of the conditional license held by USA
 17 Commercial which restricts loans to institutional lenders (Boise/Gowan Motion, Exhibit K), how
 18 USA Commercial is able to make any loan to Boise/Gowan from operating capital. See FRE 601,
 19 602, 701, 702, 703.

20 For each of these reasons, Scott Canepa objects to the Fourth Allison Declaration and moves
 21 this Court to strike the Fourth Allison Declaration in its entirety.

22 Respectfully submitted,

23 LIONEL SAWYER & COLLINS

24 /s/ Laurel E. Davis

25 By _____

Laurel E. Davis

26 Attorneys for SCOTT K. CANEPA

27 ² The Canepa Group Direct Loans are clearly outlined in their Fed.R.Bankr.P. 2019
 28 Statement filed herein as DE 555. A careful review of that document clearly illuminates the errors
 made in the Fourth Allison Declaration, and especially in the footnotes to that declaration.